

Message Text

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43

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FM SECSTATE WASHDC

TO AMCONSUL BORDEAUX PRIORITY

UNCLAS STATE 178979

E.O. 11652: N/A

TAGS: CGEN (DULONG, GABRIEL)

SUBJECT: AFFIDAVIT OF MR. DULONG

REF: BORDEAUX 123

1. PROCEDURE DESCRIBED REFTEL IS STANDARD MEANS OF OBTAINING INFORMATION FROM A PARTY TO A LAWSUIT. IT DIFFERS FROM A DEPOSITION UPON WRITTEN QUESTIONS IN THAT IT IS LESS FORMAL AND ANSWERS ARE PREPARED WITH ASSISTANCE OF COUNSEL (COMPARE RULES 31 AND 33, FEDERAL RULES CIVIL PROC., 28 USC APPENDIX). BECAUSE NO DEPARTURE FROM NORMAL PRACTICE IS INVOLVED, THERE IS LITTLE CHANCE THAT COURT WILL MISAPPREHEND MEANING OF CONOFF'S NOTARIAL ACT.

2. RE PARA 4 REFTEL, ART 27(C) OF EVIDENCE CONVENTION STATES THAT CONVENTION'S PROVISIONS "SHALL NOT PREVENT A CONTRACTING STATE FROM PERMITTING BY INTERNAL ... PRACTICE METHODS OF TAKING EVIDENCE OTHER THAN THOSE PROVIDED IN THIS CONVENTION". SINCE FRENCH PRACTICE PRIOR TO ADOPTION OF CONVENTION DID NOT RESTRICT TAKING OF DEPOSITIONS BY CONOFFS OR GATHERING EVIDENCE PURSUANT TO WRITTEN

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INTERROGATORIES, AND DEPT HAS PERCEIVED NO SUBSEQUENT

CHANGE IN FRENCH PRACTICE, ART 27(C) APPEARS TO PERMIT
PRACTICE DESCRIBED IN REFTTEL. KISSINGER

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Disposition Approved on Date:
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